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### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed March 8, 2005. In the Office Action, the Examiner notes that claims 1-14 are pending of which claims 1, 2, 5, 8, 9, and 12 are rejected and claims 3, 4, 6, 7, 10, 11, 13, and 14 are objected to as being dependent upon a rejected base claim.

In view of the following remarks, Applicants submit that the claims now pending in the application are not anticipated under the provisions of 35 U.S.C. §102. Thus, Applicants believe that all the claims are allowable.

### **REJECTION UNDER 35 U.S.C. §102**

#### **A. Claims 1, 2, 5, 8, 9 and 12**

The Examiner has rejected claims 1, 2, 5, 8, 9, and 12 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,665,495 B1 by Miles et al. (hereinafter "Miles"). The Applicants respectfully traverse the rejection.

In general, Miles teaches a system and method for providing non-blocking routing of optical data through a telecommunications router in which ingress edge units receive the optical data packets from data links and aggregate the optical data packets into "super packets". In particular, Miles teaches an ingress super packet processor that classifies incoming data packets, queues the classified data packets in classification queues, constructs partial super packets, constructs associated super packets, and sends the super packets to an egress edge unit for transmission towards a downstream node. (Miles, Abstract).

Miles, however, does not teach each and every element of Applicants' invention as recited in independent claim 1. Namely, Miles fails to teach, show, or suggest at least the limitation that "n is determined based on the common traffic characteristic".

Specifically, Applicants' claim 1 positively recites:

A method for concatenating packets to be transmitted from a first node to a second node, the method comprising the steps of:

- (a) receiving packets having at least one traffic characteristic from at least one input port;
- (b) concatenating  $n$  received packets to form a concatenated packet; and
- (c) transmitting the concatenated packet from the first node to the second

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node, characterized in that  
the  $n$  received packets have a common traffic characteristic and  $n$  is  
determined based on the common traffic characteristic.  
(Emphasis added.)

In the Applicants' invention of at least claim 1, the  $n$  received packets concatenated to form a concatenated packet have a common traffic characteristic. The number of received packets  $n$  concatenated to form a concatenated packet is based on the common traffic characteristic. In the portion of Miles cited by the Examiner as teaching Applicants' limitation of " $n$  is based on the common traffic characteristic", however, Miles specifically discloses that "[t]he partial super packets will remain in the packet classification queue 114 for an appropriate amount of time based on management of the packet classification queue 114 and the super packet ingress queue 124." (Miles, Col 20, Line 66 – Col. 21, Line 3). This portion of Miles, however, merely teaches queue management, as well as interaction among the components in which assembled partial super packets are stored prior to construction and transmission of super packets. Nowhere in this portion of Miles cited by the Examiner is there any teaching or suggestion of determining the size of a partial super packet, much less that the size of the partial super packet is based upon a common traffic characteristic.

Rather, Miles teaches that the sizes of the partial super packets are controlled according to queue size. In particular, Miles states that "partial super packets will be extracted from the packet classification queue 114 in a manner that best avoids overflow of the packet classification queue 114 and the super packet ingress queue 124." (Miles, Col. 21, Lines 6-9). Thus, extracting partial super packets in order to prevent queue overflow results in partial super packets having sizes determined according to the sizes of the associated queues from which the partial super packets are extracted. A concatenated packet size determined according to the size of the queue in which the concatenated packet is stored, as taught in Miles, is simply not concatenation of  $n$  received packets where  $n$  is determined based on a common traffic characteristic, as taught in Applicants' invention of at least claim 1.

Moreover, Miles further states that partial super packets are output from the packet classification queue when the partial super packets reach a predetermined size. Formation of partial super packets of a predetermined size, however, in no way teaches

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or suggests formation of a concatenated packet having  $n$  received packets where  $n$  is determined based on a common traffic characteristic, as taught in Applicants' invention of at least claim 1. Furthermore, Miles is completely devoid of any teaching, showing, or suggestion of concatenation of  $n$  received packets to form a concatenated packet where  $n$  is determined based on a common traffic characteristic. As, such, Miles fails to teach or suggest each and every element of Applicants' claim 1.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added)). The Miles reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

Therefore, for the reasons discussed above, Miles fails to teach, show, or suggest each and every element of Applicants' invention of at least independent claim 1. As such, the Applicants submit that independent claim 1 is allowable under 35 U.S.C. §102. Similarly, independent claim 8 recites relevant features similar to the features recited in independent claim 1. Namely, claim 8 includes the substantially similar limitation "the  $n$  packets belong to one traffic characteristic group and  $n$  is determined based on the traffic characteristic of the one traffic characteristic group." As such, the Applicants submit that independent claim 8 is also not anticipated by the teachings of Miles and, as such, fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder.

As such, the Applicants submit that independent claims 1 and 8 are allowable under 35 U.S.C. §102. Furthermore, dependent claims 2, 5, 9, and 12 depend, either directly or indirectly, from independent claims 1 and 8 and recite additional limitations thereof. Thus, and for at least the same reasons discussed above with respect to claims 1 and 8, Applicants submit that these dependent claims are also not anticipated by Miles and are allowable under 35 U.S.C. §102. Therefore, Applicants respectfully request that the rejection be withdrawn.

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**ALLOWABLE SUBJECT MATTER**

Claims 3, 4, 6, 7, 10, 11, 13, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for indicating allowable subject matter with respect to these claims but believe that, for at least the reasons discussed above, independent claims 1 and 8 are allowable over the prior art of record. Thus, the Applicants respectfully request that the Examiner's objection to claims 3, 4, 6, 7, 10, 11, 13, and 14 be withdrawn.

**SECONDARY REFERENCES**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to the Applicants' disclosure than the primary references cited in the Office Action. Therefore, the Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this office action.

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### CONCLUSION

Applicants submit that claims 1-14 are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 6/7/05

  
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